

# Meeting Notes    Waukesha West Bypass Resources

11/5/15

Notes by KB

## Invitee email List

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## Attendees:

### By Phone

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### In Person

Gary Evans (Waukesha County) <a href="mailto:gevans@waukeshacounty.gov">gevans@waukeshacounty.gov</a>	Kerry Meyer (CH2M Hill) <a href="mailto:Kerry.Meyer@CH2M.com">Kerry.Meyer@CH2M.com</a>	Karla Leithoff (WisDOT) <a href="mailto:karla.leithoff@dot.wi.gov">karla.leithoff@dot.wi.gov</a>
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Gary Evans Started the meeting by introducing the participants (see above)

Gary stated that there were follow up 4 action items. They are:

1. Golf Course Alignment

Waukesha County staff has been in contact with the new owners. They have invested over \$1 million in the property and are not interested in selling. A letter and email have been provided to the agencies documenting this information. Based on the owner's response, the Golf Course alignment remains as dropped alternative.

2. Fens

The county has contacted SEWRPC who have identified additional fens that may meet with mitigation requirements. This information has been sent to the Resource Agencies. The most promising is Meyer Fen in the Eagle. However SEWRPC are unable complete further investigation into this fen until spring of 2016. Kathy, Sue and Karla requested that Karen email a copy of the Meyer Fen map and information to them.

3. Buzz Hardy Woodland Conservation Easement

The County continues to coordinate with Mr. Hardy through his attorney. Since the project is now delayed, there is time for the owner to obtain his appraisal and the acquisition is still in progress. All agencies would like to see the woodlands protected.

4. Refinement of the intersection design at CTH D at the Bypass

Gary explained that he met with the designer about a month ago and they worked out an intersection shift that avoids the fen but still maintains the interior forest habitat. The shift did cause the alignment for Sunset Drive to be moved north, but reduced overall wetland impacts by 2.6 acres. The shifted alignment would have no effects on the fen and would possibly improve the fen by moving the existing roadway away from it adjacent to CTH D.

This change will require a re-evaluation of the EIS. The county is working with the parties to determine if a public information meeting or hearing will be needed. This re evaluation will also take time to work through the process. The County and State have agreed to delay the construction of the segment from USH 18 to Northview to 2017 and the segment from STH 59 to USH 18 to 2018.

Sue stated that she likes the alignment shift missing the fen but questioned if there would be indirect effects to the fen.

Gary responded that the roadway alignment will be in a cut section but above the water table, a tree buffer will exist between the fen and the bypass, and the alignment of the existing sunset drive will be moved away from the fen.

Sue requested copies of the sections showing the groundwater and the cut sections at the fen. Gary will provide them to her.

Marie stated that it would appear that the refined alignment has no indirect affect at the fen.

The group then discussed the Corp permit for the project. It was asked if instead of a single permit for the whole project (STH 59 to Northview) the project could be built with two 404 permits – a General permit from USH 18 to Northview and an Individual permit from STH 59 to USH 18.

Ben stated that in previous discussions it was decided to go with one permit, but at this time we should revisit that decision.

Gary pointed out that the North project (Northview to Summit) is not affected by the refined intersection alignment at Sunset and could be submitted as a separate General Permit.

Marie suggested that the group re-submit the permit package with a discussion on the separation of the projects and affects on the corridor. She also stated that we do not need to wait for the completion of the re-evaluation of the FEIS to submit the permit application.

The group then discussed the changes that the intersection refinement would have on the LEDPA and mitigation requirements.

1. Voluntary mitigation at 1:1 of native tree species to mitigate for tree loss.

Trees mitigation is still be agreed to by the State on a voluntary basis. The location of the trees is still being investigated.

Karla stated that a continuous location for tree planting would make the most sense to mitigate loss.

Sue wanted to see tree mitigation used to buffer the roadway and to be continuous to the resources on this project. She explained that creating upland habitat is important and that can be done in 2 or 3 locations.

Gary suggested that the existing roadbed of the re-aligned Sunset Drive might provide a suitable mitigation locations

Craig suggested relocating the driveway to the remaining Hardy Lands on the east to gain more area and remove it from the wetlands. The group will address the driveway location during design, but did explain the need to separate it from the intersection and to provide reasonable access to the owner after the project.

Jay discussed that Central office saw the tree mitigation as a special situation and has already reluctantly agreed to it so they will keep that agreement. He stated that mitigation must be within the project area and did not like the comment made by EPA regarding a DNR Wish list of locations for tree mitigation. He did not want this to become a banking of trees. Again, he stated that DOT is committed and in agreement with voluntary tree mitigation.

Craig discussed the tree mitigation locations, it is his understanding that the DNR will choose the mitigation locations and tree species. He will be working with Mike Seeger at DNR

regarding this issue and plans to meet with him over the next week. Once they meet, he would like to meet with the group and determine the locations.

Claudia suggested that the agencies would all need to work together to create a tree mitigation plan.

Craig stated that the DNR is not interested in planting trees in people's backyards and wants to decide mitigation sites

Gary then brought up the fen mitigation requirement of the LEDPA. Since the fen is no longer affected by the project, he asked if the fen mitigation is still required.

Kathy stated that the fen mitigation was no longer required, but there is a concern that the fen mitigation site included additional mitigation for other impacts.

Karla explained that other locations could be used for those impacts and that there would be sufficient capacity at East Troy for them for the first phase.

Marie was interested in the timing for the release of credits and the project schedule.

Kathy state that all credits must be available at the time of permitting.

Gary then started the discussion of the Hardy Woodlands mitigation.

Kathy stated that the EPA wants to have the easement and feels it is still important and strongly suggested the county continue to work on obtaining it.

Gary explained that the conservation easement is still a goal of the county but we do not have legal authority to obtain it and the county does not want this to hold the project up

Jay stated that extra ordinary measures to try to obtain this easement are not necessary.

Sue stated that the EPA had requested the woodland conservation easement to mitigate for the fen impact and we are no longer affecting the fen.

Kathy stated that the woodlands are not a permit-able resource and while they would appreciate continued effort to protect them, we should pursue it in good faith only.

Gary stated that we are keeping up with this but wanted information on the project requirements if the woodlands are not obtained in a conservation easement.

Marie stated that the easement on the woodlands is part of the LEDPA so it would still be needed for the current permit if the LEDPA is anything excerpt the Pebble Creek West. The selected alignment is still not the least impact to the wetlands, so the protection of the woods would still apply.

Anita stated that there is great concern that this could be a deal breaker

Ian asked to clarify that the EPA and Corp will only be requiring the 1 tree mitigation and protection for the Hardy Woods

Jay made it clear the DOT cannot make a commitment on the woodlands conservation and continue to make the good faith effort on it. He also stated DOT will do the tree mitigation and it is voluntary

Gary stated that we will do the voluntary tree mitigation, but the Hardy easement is not voluntary and is a required part of the LEDPA

Jay and Anita stated they did not agree with this.

Kathy explained that tree mitigation did not count as woodland mitigation since planted trees take many years to equal old growth forest. She also detailed that new trees are not suitable wildlife habitat and that old growth is required for this.

Jay stated that fish and wild life did not comment on this.

Claudia stated that we still need a plan to meet the LEDPA requirement and get this easement. She questioned how the LEDPA is determined and if it is the lowest wetland impact acreage or are there other factors that are considered?

Marie stated that if there are other reasons for choosing the Pebble Creek west vs. far west then those should be detailed including practicablity, costs and impacts

The entire group agreed that the rotated pebble creek alignment is good and should move forward.

The county will move forward to finalize the rotated Pebble Creek west alignment and begin the formal coordination. They will need to re-notice the project and determine the next steps

Jay suggested the agency coordination plan be revised and the re-evaluation form (available on the WisDOT website) be filled out. He also wants to see all notices prior to the public meeting and finalize it. We will also need to coordinate with agencies.

It was agreed that the group needs to meet again in early December

The real estate for the south section is being placed on hold at this time due to concerns about the lawsuit and associated risks.